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March 18, 2025

**VIA CM/ECF**

The Honorable Marilyn J. Horan  
United States District Court Judge  
Joseph F. Weis, Jr. U.S. Courthouse  
700 Grant Street, Courtroom 8A  
Pittsburgh, PA 15219

Re: *U. S. Steel Corp. v. Cleveland-Cliffs Inc.*, No. 2:25-cv-00015 (W.D. Pa.)

Dear Judge Horan:

We write on behalf of Defendants Cleveland-Cliffs Inc. and Lourenco Goncalves (together, “Cliffs”) in response to Plaintiffs’ March 17, 2025 letter to the Court (Dkt. 91) and another development from the same day.

**First**, as Plaintiffs noted in their letter, Plaintiffs have consented to extend the deadlines in the D.C. Circuit action, *U. S. Steel Corp. v. CFIUS*, No. 25-1004 (D.C. Cir. 2025), for a second time. Briefing in that case will now not be completed until April 21, 2025, and argument will not be heard until mid-May. While these consensual extensions are difficult to square with Plaintiffs’ attempts to create urgency in this case, they are particularly notable given the stated reason for extending the deadlines, which Plaintiffs did not note in their letter to this Court: “allowing the government to complete its ongoing discussions with the parties regarding the U.S. Steel and Nippon Steel transaction with the goal of eliminating the need for [the D.C. Circuit’s] resolution of the litigation on the merits.” Dkt. 91-1 at 2.

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Cliffs is not privy to the contents of these “ongoing discussions.” They may reflect plans for a new investment transaction between the Plaintiffs, which have been referenced by sources in both the United States<sup>1</sup> and Japan.<sup>2</sup> Whatever their content, they apparently have the goal and reasonably likely effect of mooted the D.C. Circuit action. If so, they would undoubtedly impact, and likely moot, the claims that Plaintiffs have sought to expedite in this action. Cliffs should not be required to litigate this case on an expedited basis, and the Court should not be required to give this case priority for judicial resources, when Plaintiffs have abandoned the premise for expedition.

Relatedly, we note that Plaintiffs have insisted in the parties’ discussions about a proposed protective order that they be allowed to use at least some of the discovery produced in this case in the D.C. Circuit action. This is contrary to Plaintiffs’ representation to the Court that Plaintiffs did not “bring this case to get this discovery for the D.C. Circuit,” and that any concerns about using discovery from this case in another forum can be addressed in a protective order. January 17, 2025 Hearing Tr. at 58; *see also id.* at 57-58 (Plaintiffs’ promise that “[a]ll [Defendants’] concerns about sensitivity of these documents . . . can be dealt with in confidentiality orders. It’s something that we do all the time.”).

**Second**, Cliffs respectfully requests that the Court take notice of the supplemental authority *JSW Steel (USA) Inc. v. Nucor Corporation*, No. 22-20149 (5th Cir. Mar. 17, 2025), a decision handed down yesterday involving many of the issues and parties currently before the Court. In *JSW Steel*, the Fifth Circuit affirmed dismissal of Sherman Act claims against U. S. Steel and others (Cliffs had also been a defendant, whose dismissal was not appealed). The Fifth Circuit affirmed that even “lockstep” petitioning activity cannot form the basis for antitrust liability under *Noerr-Pennington*, *id.* at 7-8, and that parallel action that defendants have valid independent bases to undertake is insufficient to state a claim for conspiracy to violate Sherman Act, *id.* at 8-10. A copy of the *JSW* decision is attached as Exhibit A.

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<sup>1</sup> *See, e.g.*, Roll Call, *Press Conference: Donald Trump and Shigeru Ishiba of Japan Hold a Press Event February 7, 2025* (Feb. 7, 2025), <https://rollcall.com/factbase/trump/transcript/donald-trump-press-conference-shigeru-ishiba-japan-february-7-2025/> (President Trump referencing an investment by Nippon Steel, rather than an acquisition); Trevor Hunnicutt and Nandita Bose, *Trump says he would not mind if Nippon Steel took minority stake in US Steel*, REUTERS (Feb. 14, 2025), <https://www.reuters.com/markets/commodities/trump-says-he-wouldnt-mind-if-nippon-steel-took-minority-stake-us-steel-2025-02-14>.

<sup>2</sup> *See, e.g.*, Yoshino Gekka, *Three Scenarios Looming for Nippon Steel and US Steel*, TOYO KEIZAI (Feb. 14, 2025), <https://toyokeizai.net/articles/-/858554?page=3> (describing “large investment, not acquisition” as scenario that is “currently the most realistic and is likely to proceed”); Yoshino Gekka, *Protectionist policies that did not improve US Steel's competitiveness*, TOYO KEIZAI (Feb. 14, 2025), <https://toyokeizai.net/articles/-/859603?page=3> (“Nippon Steel’s plan to acquire U.S. Steel” is “now moving in the direction of ‘large-scale investment rather than acquisition’”).

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We thank the Court for its attention to these developments.

Very truly yours,

/s/ William Pietragallo, II

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CC: Andrew J. Rossman, Esq.  
Steig D. Olson, Esq.  
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Enclosure: Opinion (Doc. No. 129-1), *JSW Steel (USA) Inc. v. Nucor Corporation*, No. 22-20149 (5th Cir. Mar. 17, 2025).